

JUN 23 2005

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

JOHN F. CORCORAN, CLERK
BY:  DEPUTY CLERK

DONALD RAY HAMILTON, JR.,)	CASE NO. 3:04CV00071
)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
JOHN GORDON, <i>et. al.</i> ,)	
)	
Defendants,)	
)	JUDGE JAMES H. MICHAEL, JR.

Before the court is the presiding United States Magistrate Judge's Report and Recommendation of May 16, 2005 wherein he recommended that the court dismiss the February 15, 2005 motion for summary judgment filed by Great Divide Insurance Company; grant, in part, the February 14, 2005 motion for summary judgment filed by defendant John Gordon to the extent it seeks a determination that he was a borrowed servant and employee of Builders First; grant the motion for summary judgment filed February 15, 2005 by Accustaff, Inc., Randstad US, L.P. and Randstad General Partner (US), LLC and dismiss them from this action; and deny as withdrawn the motion filed by Great Divide Insurance Company. After a careful review of the entire record in this case, and no objection having been filed to the Magistrate Judge's Report within ten (10) days of its service upon the parties, *see* Fed. R. Civ. P. 72(b), the court accepts the Magistrate Judge's Report in its entirety. It is accordingly this day

ADJUDGED, ORDERED, and DECREED

as follows:

1. The Magistrate Judge's Report and Recommendation, filed May 16, 2005, shall be, and it hereby is, ACCEPTED in its entirety;
2. Defendant Great Divide's motion for summary judgment filed February 15, 2005 shall be, and it hereby is, DISMISSED as withdrawn;
3. Defendant John Gordon's motion for summary judgment filed February 14, 2005 shall be, and it hereby is; GRANTED to the extent his motion seeks a determination that at all times he was a borrowed servant and employee of builders first.
4. Defendants Accustaff, Inc., Randstad US, L.P. and Randstad General Partner (US), LLC's motion for summary judgment filed February 15, 2005, shall be, and it hereby is; GRANTED.
5. The plaintiff's action against defendants Accustaff, Inc., Randstad US, L.P. and Randstad General Partner (US), LLC in the above-captioned case shall be, and it hereby is, STRICKEN from the docket of the court. All other actions by the plaintiffs in the above-captioned case are to remain on the docket of the court.
6. Defendant Great Divide Insurance Company's motion for summary judgment filed on February 15, 2005, is DENIED as withdrawn.

The Clerk of the Court hereby is directed to send a certified copy of this Order to all counsel of record and to Magistrate Judge Crigler.

ENTERED: *James H. Michael, Jr.*
Senior United States District Judge
6-23-2005
Date